

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

FRESHUB, INC., FRESHUB, LTD.	§	
	§	
vs.	§	NO: 1:19-CV-00885-ADA
	§	
AMAZON.COM INC., AMAZON DIGITAL	§	
SERVICES, LLC, PRIME NOW, LLC,	§	
WHOLE FOODS MARKET SERVICES,	§	
INC.	§	

JOINT MOTION TO MODIFY SCHEDULING ORDER

The parties, Plaintiffs Freshub, Inc. and Freshub, Ltd. (collectively, “Freshub”) and Defendants Amazon.com, Inc., Amazon Digital Services, LLC, Prime Now, LLC, and Whole Foods Market Services, Inc. (collectively, “Defendants”), jointly request to modify the Order Governing Proceedings entered in this action on October 24, 2019 (Dkt. No. 40, “Scheduling Order”), in light of the Court’s recent Order Resetting *Markman* Hearing (Dkt. No. 57), which reset the *Markman* hearing in this case for June 19, 2020 at 9:00 a.m. Specifically, the parties request to modify the Scheduling Order as follows, based on the Court’s default deadlines set forth in the Court’s most recent standing Order Governing Proceedings for Patent Cases dated February 2020:

Item	Previous Deadline	Parties’ Agreed Deadline
<i>Markman</i> Hearing	6/19/20 at 9:00 am	No modification requested; ordered in Dkt. No. 57.
Fact Discovery opens; service of Initial Disclosures per Rule 26(a). [1 week after <i>Markman</i>]	4/3/20	6/26/20

Deadline to add parties [6 weeks after <i>Markman</i>]	5/8/20	7/31/20
Final Infringement and Invalidity Contentions. [8 weeks after <i>Markman</i>]	5/22/20	8/14/20
Deadline to amend pleadings. A motion is not required unless the amendment adds patents or claims. [12 weeks after <i>Markman</i>]	6/19/20	9/11/20
Close of Fact Discovery [30 weeks after <i>Markman</i>]	9/11/20	1/15/21
Opening Expert Reports [31 weeks after <i>Markman</i>]	9/18/20	1/22/21
Rebuttal Expert Reports [35 weeks after <i>Markman</i>]	10/16/20	2/19/21
Close of Expert Discovery [38 weeks after <i>Markman</i>]	11/6/20	3/12/21
Deadline to meet and confer to discuss narrowing the number of claims asserted and prior art references at issue. The parties shall file a Joint Report within 5 business days regarding the results of the meet and confer. [39 weeks after <i>Markman</i>]	11/13/20	3/19/21
Dispositive motion deadline and <i>Daubert</i> motion deadline. [40 weeks after <i>Markman</i>]	11/20/20	3/26/21
Serve Pretrial Disclosures (jury instructions, exhibits lists, witness lists, designations) [42 weeks after <i>Markman</i>]	12/4/20	4/9/21

Serve objections to pretrial disclosures/rebuttal disclosures [44 weeks after <i>Markman</i>]	12/18/20	4/23/21
Serve objections to rebuttal disclosures; file motions <i>in limine</i> [45 weeks after <i>Markman</i>]	1/8/21	4/30/21
File Joint Pretrial Order and Pretrial Submissions (jury instructions, exhibits lists, witness lists, designations); file oppositions to motions <i>in limine</i> [46 weeks after <i>Markman</i>]	1/15/21	5/7/21
Deadline to meet and confer regarding remaining objections and disputes on motions <i>in limine</i> [47 weeks after <i>Markman</i>]	1/22/21	5/14/21
File joint notice identifying remaining objections to pretrial disclosures and disputes on motions <i>in limine</i> [3 business days before Final Pretrial Conference]	2/2/21	5/18/21
Final Pretrial Conference, 9 AM	2/5/21, subject to the Court's availability	5/21/21, subject to the Court's availability
Jury Selection/Trial	3/15/21, subject to the Court's availability	6/14/21, subject to the Court's availability

Date: April 22, 2020

Respectfully submitted,

/s/ Ravi Ranganath

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on April 22, 2020, a copy of the foregoing was served electronically, via CM/ECF, on all counsel of record who are deemed to have consented such service under the Court's local rules. Any other counsel of record will be served via facsimile and certified mail, return receipt requested.

/s/ John P. Palmer

John P. Palmer